

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
EUREKA DIVISION

RYAN MORGAN, et al.,

Plaintiffs,

v.

F/V CHIEF JOSEPH, et al.,

Defendants.

Case No. 23-cv-01357-RMI

**ORDER TO SHOW CAUSE**

On March 23, 2023, Plaintiffs Ray Morgan and Harlock Murray Underwriting, filed this action against Defendants F/V Chief Joseph and Steven Zidell, alleging that Defendants' negligence caused collision and injury to the F/V Linda. Pls.' Compl. (Dkt. 1) at 4-6. Plaintiffs consented to the jurisdiction of a Magistrate Judge on April 6, 2023 (dkt. 6) and on June 21, 2023, Plaintiffs notified the court that the parties had reached a settlement agreement and that voluntary dismissal would soon follow. *See* Pls.' Notice (Dkt. 7). Neither Plaintiffs nor Defendants have since taken any action on this case. Further, there is no evidence on the docket that Defendants have been properly served.

Rule 4(m) of the Federal Rules of Civil Procedure provides that, "[i]f a defendant is not served within 90 days after the complaint is filed, the court...must dismiss the action without prejudice against that defendant or order that service be made within a specified time." Fed. R. Civ. P. 4(m). If the plaintiff shows good cause for failure to timely serve a defendant, the court must extend time for service for an appropriate period. *Id.* Given that the court sees no evidence of service to Defendants, Plaintiff is ORDERED to serve Defendants within 21 days of this order, or, alternatively, to provide evidence of prior service.

Further, the Federal Rules permit the court to dismiss actions for failure to prosecute if a plaintiff fails to litigate their case. *See* Fed. R. Civ. P. 41(b); *see also* *Olivia v. Sullivan*, 958 F.2d 272, 273 (9th Cir. 1992) (The court has “inherent power” to control its docket and may “impose sanctions, including dismissal, in the exercise of that discretion”). Because no actions have taken place in this matter since the filing of the Notice of Settlement in July, Plaintiff is further ORDERED to, within 21 days of the date of this order, show cause as to why this matter should not be dismissed for failure to prosecute pursuant to Rule 41(b).

**IT IS SO ORDERED.**

Dated: January 17, 2024

  
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ROBERT M. ILLMAN  
United States Magistrate Judge